

Claimant raised the following issues on review: (1) whether the claimant suffered personal injury by accident or occupational disease arising out of and in the course of employment; and, (2) nature and extent of claimant's disability, if any.

Respondent notes claimant had a prior history of sinusitis and headaches. Respondent argues the court appointed medical examiner concluded there was no relationship between claimant's work environment and her condition. And that her work environment neither temporarily nor permanently aggravated that condition. Consequently, respondent argues the ALJ's Award should be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

The ALJ's Award sets out findings of fact and conclusions of law in some detail and it is not necessary that those be repeated herein. The Board adopts those findings and conclusions as its own.

The Court ordered independent medical examiner, Dr. Allen J. Parmet, and the treating physician, Dr. Wade A. Gaeddert, both concluded claimant did not suffer any permanent impairment as a result of her alleged exposure to chemicals in the workplace. And both Drs. Parmet and Gaeddert agreed that the level of xylene at respondent's facility would not have set off an allergic reaction. Consequently, the only issue for Board determination is whether claimant's employment caused a temporary aggravation of her preexisting sinusitis condition.

Dr. Parmet diagnosed claimant with chronic sinusitis dating back to 1991 with episodic recurrent infections. Dr. Parmet specifically noted that sinusitis is not typically associated with workplace chemical exposure. Dr. Parmet additionally diagnosed claimant with vasomotor rhinitis or chronic runny nose. The doctor noted that condition has no known cause and people sometimes simply develop it in mid life. Dr. Parmet's report contained a detailed exhaustive recitation of claimant's medical history and he concluded there was no causal relationship between claimant's condition and her employment.

Dr. Gaeddert concluded claimant's work environment likely caused a temporary aggravation of claimant's sinusitis. But he agreed that claimant presented for treatment with a deviated septum which he noted was a significant contributing factor in claimant's sinusitis. He further agreed the fact claimant smoked a pack of cigarettes a day also contributed to her sinusitis.

Dr. Gaeddert began to think there was a workplace component to claimant's problems because she continued to complain of headaches after his second surgery. That was the reason the doctor referred claimant for allergy testing. But Dr. Parmet discounts a work-related causation for the headaches and notes that claimant's headaches were likely caused by withdrawal from medication she had received before her treatment with Dr. Gaeddert. Dr. Parmet noted in his report:

Her use of the narcotic Lortab at large doses may have been to treat her painful headaches, but the headaches may have also been analgesic withdrawal headaches. It is typical in an individual who has been taking a narcotic such as Lortab (hydrocodone) for a consistent period of several weeks to have withdrawal when the medication levels drop in the bloodstream after a few hours. The typical patient response is to re-dose. This may even occur with aspirin or Tylenol. Thus, she may have inadvertently entered another self-reinforcing cycle of pain and medication. It is unfortunate that this led to confrontation and misunderstanding. Likewise, the need for a second surgery is felt by Ms. Walker to be due to a chemical exposure, while the sinus x-rays of May 2000 clearly indicate a posterior ethmoid sinusitis was present at that time. Dr. Gaeddert attempted to minimize the amount of surgery he did, as the initial surgery was quite extensive. However, the patient did not respond and necessitated the second surgery with posterior ethmoidectomy being performed at that time.¹

There was no indication in the record regarding what, if anything, that was present in the workplace to trigger claimant's sinusitis. Dr. Gaeddert concluded it was likely contributed to by the workplace but he did not consider a work environment contribution until the headaches continued after the surgeries. As noted by Dr. Parmet there is another explanation for those headaches.

After her second surgery claimant did not return to work, but at her last office visit with Dr. Gaeddert, she was again having post nasal drainage. At that visit Dr. Gaeddert diagnosed claimant with left ethmoid sinusitis or maxillary sinusitis and treated her with antibiotics. Although this is the same symptomatology she had when she initially began treatment with the doctor, the distinguishing fact is that she was no longer in the workplace but still had the same problems that she attributed to her workplace exposure.

Dr. Parmet noted claimant had episodic sinus infections in the past and at her last doctor's appointment claimant continues to experience such infections even though she is no longer in respondent's work environment. The Board concludes the more persuasive testimony was presented by Dr. Parmet. Claimant has failed to establish her work environment caused or aggravated her preexisting condition and the ALJ's Award is affirmed.

AWARD

WHEREFORE, the Award of Administrative Law Judge Bruce E. Moore dated September 25, 2002, is affirmed.

IT IS SO ORDERED.

¹ Parmet Depo., Ex 2 at 12.

Dated this _____ day of March 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Scott J. Mann, Attorney for Claimant
 Richard J. Liby, Attorney for Respondent
 Bruce E. Moore, Administrative Law Judge
 Director, Division of Workers Compensation